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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,397	08/21/2003	Andrew Stanley Peck	LIT-022	8091

7590 09/29/2004

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EXAMINER

HOGUE, GARY CHAPMAN

ART UNIT PAPER NUMBER

3611

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/645,397

Applicant(s)

PECK, ANDREW STANLEY

Examiner

Gary C Hoge

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-8 and 12-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Howell.

Howell discloses a picture frame **10**, comprising a substantially transparent support member **12** adapted for supporting a picture such that one may view the picture through the support member **12**, the support member **12** including a first side and a second side wherein the second side is opposite the first side; a first image **20** formed along the first side of the support member; a second image **16** formed along the second side of the support member, the second image being formed about an entire periphery of the second side of the support member so as to define a border shaped and dimensioned for positioning a picture therein for viewing from the opposite side of the support member (see column 3, lines 21-25); means **26** for supporting a picture adjacent the second side of the support member in a manner permitting viewing of the picture through the support member.

Regarding claims 5 and 16, see column 3, lines 21 and 43.

Regarding claims 6, 7, 17 and 18, see column 1, line 11.

Regarding claims 8 and 19, the support member **12** is a one-piece construction.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9-11 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vargish in view of Howell.

See Fig. 5. Vargish discloses a picture frame having a bottom portion 16, an upper portion 12a, and a central portion 14a. However, Vargish does not disclose a first image formed on the first side of the support member and a second image formed on the second side of the support member. Howell teaches that it was known in the art to provide a first image 20 formed on the first side of the support member and a second image 16 formed on the second side of the support member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a first image formed on the first side of the support member and a second image formed on the second side of the support member disclosed by Vargish, as taught by Howell, in order to improve the aesthetic appearance of the picture frame.

Regarding claims 10, 11, 21 and 22, see Fig. 5 of Vargish.

5. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vargish in view of McLaughry.

See Fig. 5. Vargish discloses a picture frame having a bottom portion 16, an upper portion 12a, and a central portion 14a. However, Vargish does not disclose opposed inwardly-directed arcs on the upper portion. McLaughry teaches that it was known in the art to provide

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opposed inwardly-directed arcs on a frame into which a picture is slid. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the frame disclosed by Vargish with opposed inwardly-directed arcs, as taught by McClaughry, in order to facilitate insertion and removal of the picture.

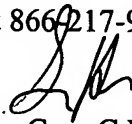
***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C Hoge whose telephone number is (703) 308-3422. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary C Hoge  
Primary Examiner  
Art Unit 3611

gch